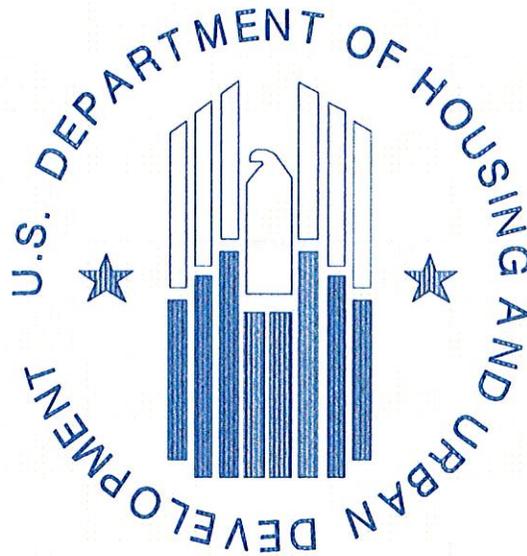


**U.S. Department of Housing & Urban Development
Buffalo, New York Office**



Fiscal Years 2010 and 2011

Program Year Report

for

City of Dunkirk, New York
Community Development Block Grant Program
(CDBG)

Period Reviewed:

April 1, 2010 – March 31, 2012

Introduction

As a recipient of grant funds provided by the Department of Housing and Urban Development, each jurisdiction that has an approved Consolidated Plan shall annually review and report to HUD on the progress it has made in carrying out its Consolidated Plan and Annual Action Plan. The performance report is submitted to HUD in the form of the Consolidated Annual Performance and Evaluation Report (CAPER).

HUD has the responsibility to review the CAPER report and the performance for each jurisdiction on an annual basis. In conducting performance reviews, HUD will primarily rely on information obtained from the recipient's performance reports, records, findings from monitoring reviews, grantee and subrecipient audits, audits and surveys conducted by the Inspector General, and financial data regarding the amount of funds remaining in the line of credit plus program income. HUD may also consider relevant information pertaining to a recipient's performance gained from other sources, including NY State Audits, citizen comments, and other information provided by or concerning the recipient. A recipient's failure to maintain records in the prescribed manner may result in a finding that the recipient has failed to meet the applicable requirement to which the records pertains. Such information, along with grantee input, is considered in HUD's Program Year Letter (PYL) in order to make a determination that a grantee has the continuing capacity to administer HUD programs.

In November of 2012, the Office of the New York State Comptroller issued a detailed audit with the objective to evaluate the City's financial management and administration of its CDBG program. The evaluation covered the time period of April 1, 2008 through June 13, 2012. The conclusion of the report is that the CDBG program has been mismanaged. The review of the CAPER corroborates this assessment.

In the assessment of your community's performance, this report is prepared to provide feedback on your community's performance in the delivery of HUD's Community Development Programs. This report is presented in two sections. Section I provides a general summary related to your planning and performance reporting. Section II provides general overview related to specific program progress and performance. This report covers the program years 2010 and 2011.

In addition to this PYL, HUD plans to continue providing on-site monthly technical assistance to address on-going performance issues related to the City's CDBG program. The Buffalo Office is also requesting that the City of Dunkirk be considered for technical assistance in conjunction with the *One CPD Program*.

Section I – Planning and Reporting

2011 Program	CDBG	\$520,657
2010 Programs and Funding Amounts:	CDBG	\$622,391

Compliance with the Consolidated Plan and the 2010 and 2011 Annual Action Plans and Accuracy of Performance Reports

Consolidated Annual Performance and Evaluation Reports (CAPER) are due 90 days after the City completes each program year. The City's program year start date is April 1st therefore the CAPER is due to be submitted to this Office no later than June 30th. The CAPER for 2011 was received by the HUD Buffalo Field Office on Monday July 01, 2012. The 2010 report was finally received on May 03, 2012 over 300 days late. Both reports contain numerous omissions specific to CDBG performance, as well as incomplete financial reporting and erroneous financial information. Also the reports do not include updated performance data as it pertains to the Integrated Disbursement and Information System (IDIS), as well as performance information comparing program year accomplishments to Annual Plan goals.

Section II – Program Progress and Performance

Community Development Block Grant (CDBG)

Summary of Performance Indicators and Accomplishments

Activities: CDBG funds expended during the program years were spent on activities that were described in the City's third and fourth year annual plans. The following activities and accomplishments are highlighted since as presented in the PR03 eligibility concerns exist. A spreadsheet is enclosed with this report outlining each activity in the PR03 report that will also require follow-up.

Economic Development: The CAPERs indicate that the Dunkirk Local Development Corporation (DLDC) was allocated \$190,000 in program year 2010 and \$164,537 in program year 2011 to assist business to create and/or retain jobs made available to low and moderate income persons. Neither CAPER includes a description of the businesses receiving assistance, what the assistance was for, and whether any jobs were created. A review of IDIS Program Report 03 for these activities provided no information regarding what businesses received the assistance, the amount of the assistance, and any accomplishments, and most importantly any jobs that were to be created based on the investment. This information must be added to IDIS within 30 days of this letter we are also requesting that you send documentation to this Office which verifies the job creation data that will be presented in IDIS. Failure to comply with this request will result in the City being required to reimburse the CDBG

program with non-federal funds. Additionally neither CAPER included a copy of the DLDC's loan portfolio as required by CAPER submission guidelines. Due to the above cited deficiencies we are requesting that before any new economic development activity is authorized that the City submits the complete application for assistance to the Buffalo Field Office for review.

Housing: The CAPERs report that \$85,741.55 in program year 2010 and \$60,000 in program year 2011 CDBG funds were allocated for the City's homeowner occupied rehabilitation program. The 2010 CAPER includes a map that lists five properties by address that received the CDBG assistance; the 2011 CAPER did not include a map specific to the housing rehabilitation program but included an IDIS PR 06 report which listed four properties by address that received CDBG funds. The 2010 CAPER narrative states that 19 homeowners received assistance while the 2011 CAPER states that 14 homeowners received assistance. A review of the IDIS PR 03 report reveals the City only included data for five properties that received 2011 funds, no data was included specific to the homeowners receiving 2010 CDBG funds. IDIS must be updated to include each homeowner that received CDBG assistance, the type of assistance and all beneficiary data.

Public Facilities and Improvements: The 2010 CAPER narrative states \$55,041 was spent during the program year in a "beautification program" that used CDBG funds to purchase new park benches, waste receptacles, signs, and flowers throughout a target area. Because there are no specifics included in the IDIS PR 03 report regarding this activity it has not been demonstrated to meet a national objective and therefore the City must make arrangements to reimburse the CDBG program with non-federal funds for this expenditure. The 2010 CAPER states \$15,000 dollars was allocated for sidewalk replacement however the activity description was sidewalk work at the City's new bike path. The description of the activity is confusing: were CDBG funds provided to build a new sidewalk along side the bike path or were they used to support the construction of the bike path? Regardless, the national objective of Slums and Blight on a Spot Basis (SBS) is incorrect; this activity can only be classified as LMA if it primarily benefits the persons in a low/mod designated area. Justification of an LMA must be provided or this activity will be subject to reimbursement as well.

The 2011 CAPER indicates \$60,000 was allocated and expended for sidewalk improvements. The IDIS PR 03 report which lists the national objective (LMJFI) as low/mod job creation public facility improvement benefit does not include a narrative describing what sidewalks were improved, where they were located or what jobs were retained or created. The CAPER narrative in 2010 indicates the CDBG funds were used to support the construction of the aforementioned bike path connecting residential areas to the waterfront and the City's business improvement area. The 2011 CAPER also allocated \$36,947 in funds for the *Streetscape* beautification program with a national objective of LMA, but provides no description what CDBG funds were spent on. Once again the City must provide supporting documentation that these

activities are eligible and meet a national objective or make arrangements to reimburse the CDBG program with non-federal funds.

Public Services: The 2010 CAPER indicated \$33,548 or 5.39% of the City's overall CDBG allocation was expended during the program year well within the 15% public service limit. The City allocated CDBG funds to six activities including: Brain Gain, National Night Out, The Dunkirk Little League, Youth Summer Camp, Boys and Girls Club, and the Cool School Reading Enrichment program. Brain Gain was allocated \$7,500 none of which has been expended. The IDIS PR 03 categorizes the activity as (05H) *employment training* but provides no details on who will be providing the training and who the program is targeted for. Due to the fact that no action has been taken on this activity for over a year the City must provide an amendment in the IDIS PR 59 screen or this activity will be canceled. The National Night Out activity was categorized (05) *Public Services General* with a national objective of LMC. The accomplishment narrative states this activity was sponsored by the Dunkirk Police department to provide community awareness including crime safety, however no details are included on what the CDBG funds were spent on, or how it benefited low and moderate income persons. The City must provide supporting documentation to demonstrate this is an eligible activity. The other three public service activities which were all categorized (05d) *Youth Services* contained data that was inconsistent with each activity narrative: for example the accomplishment narrative for IDIS #511 Cool School states that every day for 3 weeks 40 children were bused to summer camp; however the actual accomplishments indicate 350 person received assistance. These activities must all be updated in IDIS to accurately reflect their accomplishments.

The 2011 CAPER indicated \$25,191 or 4.84% of the City's overall CDBG allocation was expended during the program year well within the 15% public service limit. During the 2011 program year the City funded the following activities: Adams Art Gallery, Disabled Veterans of America, Crime Awareness & Prevention, Smoke Detector program, Joint Veterans Council, Literacy Volunteers, and The Vietnam Veterans of America, among others. A review of the IDIS PR 03 for these activities does not include a description or supporting data indicating they are CDBG eligible and meet a national objective. City staff must update IDIS demonstrating each of these activities is eligible or make arrangements to reimburse the CDBG grant with non-federal funds.

Planning and Administration: The IDIS PR 26 submitted with the 2010 CAPER lists \$82,963 in expenditures for planning and administration during the 2010 reporting period, which accounts for 13.3% of their overall spending. The 2011 CAPER lists \$64,275 in expenditures for planning and administration which accounts for 12.35% over their overall spending. Both years expenditures are well within the 20% program guidelines.

National Objective Compliance: The CDBG program was designed to principally benefit low-moderate income persons. The IDIS PR 26 for the 2010 reporting period indicated that

the City spent 77.29% of their funds on activities that principally benefitted low-moderate income persons. However as cited above, there are several activities that have not been demonstrated to meet a national objective, once these activities are disallowed it would lower the percentage of funds spent on low and moderate income persons.

The IDIS PR 26 for the 2011 reporting period indicated that the City spent 75.06% of their funds on activities that principally benefitted low-moderate income persons. However the following activities: Tourism Development (\$30,000), Library Improvements (\$5,000), Lighthouse Improvements (\$3,250), and Historical Society Improvements (\$3,750) as described in IDIS PR 03 report and the CAPER narrative are ineligible and therefore should not be counted towards the low-mod benefit and arrangements should be made to reimburse the CDBG program with non-federal funds.

The misuse and/or the incorrect categorization of CDBG funds raise a serious concern to HUD regarding the City's overall capacity to administer the block grant program. The Buffalo Office acknowledges that many of the above cited actions occurred under the previous administration but that does not absolve the City from responsibility. Also of concern are the two CAPER reports which both included incomplete and/or erroneous information were originated and submitted by the current administration.

Program Progress and Timeliness: The CDBG program requires that the City's unexpended CDBG funds be no more than 1.5 times their annual grant 60-days before the end of the program year. The City's ratio was within the acceptable limits for both program years. It was determined that the City's CDBG program was carried out in a timely manner.

Fair Housing and Equal Opportunity: Our review did not reveal any significant issues related to compliance. However neither the 2010 nor 2011 CAPER includes supporting documentation regarding public notification allowing citizens to comment on the CAPER submission. However, as outlined in monitoring reports, the City has not submitted the required MBE/WBE reports, HUD-2516, to this Office. The MBE/WBE reports should be submitted no later than October 31st of each year.

HUD Monitoring: The City of Dunkirk has open monitoring findings from a 2011 review. Four of the open findings: *Delinquent and Inaccurate CAPERS, Inadequate Monitoring System for Sub-recipients, Inadequate Sub-recipient Agreement, and lack of MBE/WBE reporting*, is a contributing reason for the City's inability to demonstrate program compliance with CDBG rules. This is of serious concern since these findings were sustained from a 2009 monitoring review.

Financial

Audits: A single audit must be submitted each year 9 months from the end of the City's fiscal year. The City is current with it audit reporting. The audit contains findings which reiterate the findings cited in the monitoring report issued by the Buffalo Field Office in October of 2011 and March 2009.

The financial analyst reports the following on-going deficiencies: the financial summary report is not in balance, program income is not being reported in IDIS or described in the CAPER narrative, IDIS lacks accomplishment data, many IDIS matrix codes do not correspond to described activity, and there are several fully drawn activities that are still open with no accomplishments listed.

Management Summary

This Office recognizes that during the past year, the City has elected a new mayor and hired a new community development director. However, the City is still obligated to correct outstanding issues and findings regarding the CDBG program. Therefore the City must provide a formal written response to this Office within thirty days of receipt of this report. This correspondence must include the actions the City has taken to address these issues as well as what arrangements the City will take to reimburse the CDBG program for cited ineligible expenditures if they cannot be substantiated. If no response is received by this Office actions will be commenced to recapture the CDBG funds expended on activities that were ineligible since they did not meet a national objective. This Office will continue to provide on-site technical assistance to help the City correct these outstanding issues. HUD will also recommend the City receive technical assistance regarding capacity building as well as developing internal systems necessary for sound financial management, smart planning of program investments, subrecipient monitoring and program evaluation items that are all critical for future success in administering the CDBG program.

Based on the information available at the time of this review, HUD has questioned whether the City of Dunkirk has the continuing capacity to carry out the HUD programs identified in this report. Shortcomings and late information should be addressed and submitted as soon as possible or may impact the timely allocation of 2013 funding.

As a reminder, this report is final and is your community's Program Year Letter as required by HUD regulations. Consistent with the Consolidated Plan regulations, this assessment should be made available to the public. This can be accomplished by making it available through your established citizen participation process. HUD will also make it available to citizens upon request.